

EXHIBIT 5



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FILE NO: 029073.0000425

April 4, 2019

VIA ELECTRONIC FDA FOIA REQUEST

U.S. Food and Drug Administration
Division of Freedom of Information
Office of the Executive Secretariat, OC
5630 Fishers Lane, Room 1035
Rockville, MD 20857

Re: Freedom of Information Act Request

To Whom It May Concern:

Pursuant to the Freedom of Information Act ("FOIA"), as amended, 5 U.S.C. §§ 552 et seq., we are requesting documents relating to certain perfluoroalkyl ("PFAS") substances used in the manufacture of paper food packaging (the "Fluorochemicals"). This request is intended to be consistent with previous Request # 2019-243 as narrowed, which we understand has been cancelled.

The Fluorochemicals include, without limitation, chemicals that are or were known at relevant times to 3M Company, and/or to the FDA, as "Scotchban® Paper Protectors."

At various times such chemicals included, without limitation, chemicals identified by 3M as:

- FC-805;
- FC-807;
- FC-807a;
- FC-808;
- FC-809;
- FC-824;
- FC-826;
- FC-829;
- FC-834;



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- FC-835; and
- FX-845.

The Fluorochemicals also include

- ZONYL®, manufactured by DuPont;
- SEQUAPEL® I 1422, manufactured by Sequa Chemicals, Inc.; and
- LODYNE® P-201 and LODYNE® P-208E, manufactured by Ciba-Geigy Corporation.

We hereby requests electronic copies of:

1. All documents related in any way to any actual or proposed use of any Fluorochemical in any application related in any way to paper, food, or food packaging.

Such documents should include, without limitation:

- (a) documents related in any way to any approval(s) by FDA related to the use of any Fluorochemical in food packaging, including without limitation approvals issued in 1967, 1968, and/or 1987;
- (b) documents related in any way to the meeting described in the Notice, "Public Meeting; Issues Concerning Heat Susceptor Packaging," 53 Fed. Reg. 29777 (Aug. 8, 1988) (including any list of attendees, agenda(s), presentation materials, or notes);
- (c) documents related in any way to any petition by 3M regarding or relating to the use of FC-807, FC-807a, and/or FX-845, including for use in "susceptor packaging"—including without limitation:
 - a. any exchange of information or data related in any way to any such petition;
 - b. any reports by ENVIRON related in any way to any Fluorochemical, including those reports dated March 1996 and February 1999;
 - c. any meetings related in any way to any such petition;



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- d. any communications between Peter Hutt (or any other attorney of Covington & Burling, LLP, including of any predecessor of that firm) and any employee or official of the FDA;
 - e. the placement of any such petition in reject status; and/or
 - f. any other proceedings or decisions related to any such petition.
- (d) any planned or actual phase-out of any Fluorochemicals by any manufacturer of such chemicals, including 3M Company.
- (e) any communications to or from the FDA related in any way to inquiries, by users or manufacturers of food packaging, regarding the use or presence of any Fluorochemical in such packaging.

To the extent not produced in response to Request No. 1:

- 2. All documents related in any way to any environmental or human-health risk actually or potentially associated with the presence of any Fluorochemical in any paper product or food packaging.
- 3. All documents located and made available in response to FOIA Control No. 2017-10170 (subject "RECS RE PERFLUOROCTANOIC ACID 01/01/2007 - 11/01/2017").
- 4. All documents located and made available in response to FOIA Control No. 2017-9412 (subject "FOOD CONTAMINANT, INGREDIENT FOOD SCIENCE AND RESEARCH, ANIMAL HEALTH, HEALTH STUDIES, ETC PERTAINING TO THE PRESENCE, OCCURRENCE, AND USE OF PERFLUROCTANOIC ACID IN ANY PRODS, ANIMALS, FOOD, DRUGS 1/1/2007 TO 11/1/2017").
- 5. All documents located and made available in response to FOIA Control No. 2015-2399 (subject "NATURAL RESOURCES DEFENSE COUNCIL - PERFLUROALKYL ETHYL IN FOOD CONTACT APPLICATIONS").

We will pay all reasonable and statutorily authorized fees associated with this request. We will be submitting, in conjunction with the request, a pre-payment of \$3,410.75 consistent with the



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pre-payment identified for Request # 2019-243 and delivered via courier to:

Government Lockbox 97107
1005 Convention Plaza
St. Louis, MO 63101

We welcome the opportunity to answer any questions that you may have.

Very truly yours,

A handwritten signature in blue ink that reads "R. Dennis Fairbanks". The signature is fluid and cursive.

R. Dennis Fairbanks

RDF/
Encls.